

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Civil Action No. 04-12253-MLW

STEVEN McDERMOTT and
STACEY McDERMOTT,

Plaintiffs

v.

FEDEX GROUND PACKAGE SYSTEMS, INC.,
T.S. PRUITT, ALLEGIANCE HEALTHCARE,
INC., D. PONCE, E.W. WYLIE CORPORATION,
D.W. SMITH ARSENBERGER TRUCKING, INC.,
J.T. FOSBRINK, RYDER TRUCK RENTAL,
LORRAINE ODZANA as ADMINISTRATRIX OF
THE ESTATE OF JAMES J. ODZANA,
SHORELINE TRANSPORTATION, INC., JACYLYN
PALETTA as ADMINISTRATRIX OF THE
ESTATE OF MARIO J. CASTRO,

Defendants

**LORRAINE ODZANA AS ADMINISTRATRIX OF THE ESTATE OF
JAMES J. ODZANA'S ANSWER TO CROSS-CLAIM OF FEDEX
GROUND PACKAGE SYSTEMS, INC.**

**ANSWER TO FEDEX GROUND PACKAGE SYSTEMS, INC.'S
CROSS CLAIMS**

**COUNT I
Contribution – D. Ponce**

1. The allegations contained in paragraph 1 of FedEx Ground Package Systems, Inc.'s ("FedEx's") Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

2. The allegations contained in paragraph 2 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT II
Contribution – D.W. Smith

3. The allegations contained in paragraph 3 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

4. The allegations contained in paragraph 4 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT III
Contribution – J.T. Fosbrink

5. The allegations contained in paragraph 5 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

6. The allegations contained in paragraph 6 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT IV
Contribution – Lorraine Odzana, Administratrix of the Estate of James J. Odzana

7. Defendant Odzana denies the allegations contained in paragraph 7 of FedEx's Cross Claims

8. Defendant Odzana denies the allegations contained in paragraph 8 of FedEx's Cross Claims.

WHEREFORE, the Defendant respectfully requests that this Honorable Court enter judgment of dismissal, and award her costs and attorney fees, and for other relief as this court may deem just and equitable.

COUNT V

Contribution – Jaclyn Paletta, Administratrix of the Estate of Mario J. Castro

9. The allegations contained in paragraph 9 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

10. The allegations contained in paragraph 10 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT VI

Contribution – Allegiance Healthcare

11. The allegations contained in paragraph 11 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

12. The allegations contained in paragraph 12 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT VII

Contribution – E.W. Wylie Corporation

13. The allegations contained in paragraph 13 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

14. The allegations contained in paragraph 14 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT VIII

Contribution – Ryder Truck Rental

15. The allegations contained in paragraph 15 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

16. The allegations contained in paragraph 16 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT IX

Contribution – Shoreline Transportation, Inc.

17. The allegations contained in paragraph 17 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

18. The allegations contained in paragraph 18 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

COUNT X

Contribution – Arsenberger Trucking, Inc.

19. The allegations contained in paragraph 19 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

20. The allegations contained in paragraph 20 of FedEx's Cross Claims pertain to a defendant other than Defendant Odzana, and therefore no response is required.

AFFIRMATIVE DEFENSES

1. The complaint fails to state a cause of action against the answering defendant.

2. Plaintiffs are barred from recovery because the action has not been brought within the applicable statute of limitations.

3. Some or all of the damages for which relief is sought herein may be barred in whole or in part by the provisions of the Pennsylvania Motor Vehicle Financial Responsibility Laws.

4. If the plaintiffs suffered the injuries and damages alleged, which is denied, those damages were caused in whole or in part by the actions or inactions of third parties over whom the answering defendant had no control and for whose conduct defendant is not responsible.

5. If plaintiff and/or cross-claim plaintiff is entitled to recover against the defendant-in-crossclaim, then any such recovery must be reduced or is barred in accordance with the

comparative negligence statute, since the negligence of the plaintiff and/or cross-claim plaintiff was the proximate cause of the injuries allegedly sustained.

6. This Court lacks jurisdiction over the answering defendant.

THE DEFENDANT DEMANDS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE.

Dated: June 13, 2007

Respectfully submitted,

The Defendant,
LORRAINE ODZANA, as Administratrix of the
Estate of JAMES J. ODZANA
By her attorneys,

s/ Michele Carlucci
Maynard M. Kirpalani, BBO #273940
Michele Carlucci, BBO #655211
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CERTIFICATE OF SERVICE

I, Michele Carlucci, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the NEF on June 13, 2007.

/s/ Michele Carlucci